

06/17/2009

ORDINANCE NO.48-353

AN ORDINANCE CREATING SECTIONS 3.11.065, 4.16.075, 4.16.085, AND 4.16.087, AMENDING SECTIONS 3.11.020, 3.11.150, 4.04.010, 4.04.040, 4.04.045, 4.12.050, 4.12.140, 4.12.150, 4.16.070, 4.16.090, 4.16.100, 4.16.120, 4.16.130 AND 4.16.135 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ALCOHOLIC LIQUOR AND REPEALING THE ORIGINALS OF SECTIONS 4.04.010, 4.04.040, 4.04.045, 4.12.050, 4.12.140, 4.16.070, 4.16.100, 4.16.120, 4.16.130 AND 4.16.135 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.11.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definitions.** (a) *'Community event'* means:

(1) an outdoor event on City-owned property with an expected attendance of fifty (50) or more persons, organized for a particular and limited purpose and time;

(2) outdoor events on private property or which occur in City of Wichita parks with an expected attendance of two hundred fifty (250) or more people, organized for a particular and limited purpose and time.

Such events shall include, but not be limited to: fun runs, roadway foot races, fundraising walks, bikeathons, carnivals, festivals, community celebrations, shows, exhibitions, circuses and fairs. Such term shall not include events, other

than fun runs or races, occurring solely on sidewalks or public rights-of-way immediately adjacent to public streets.

(b) *Exceptions.* The provisions of this chapter shall not apply to:

1. Community events conducted by the City of Wichita.
2. Events consisting only of a parade, whether regulated or exempted by the provisions of Section 3.13.020 of the Code of the City of Wichita.
3. Funeral processions as regulated by Chapter 3.74 of the Code of the City of Wichita.
4. Outdoor events occurring at amusement parks licensed pursuant to Chapter 3.20 of the Code of the City of Wichita.
5. Social or political protests, rallies, gatherings, assemblies, or vigils occurring on public property, which consist solely of the displaying of signs or banners, singing and the delivering of speeches.
6. Outdoor events conducted entirely on the property of a museum, educational or religious institution
7. Outdoor events held at a members-only facility where no extraordinary police services are required.
8. Events held entirely inside the Lawrence-Dumont Stadium.
9. Farmers Markets licensed pursuant to Chapter 3.94 of the Code of the City of Wichita.

10. Auctions as regulated by Chapter 3.36 of the Code of the City of Wichita.

11. Garage or Miscellaneous sales as regulated by Chapter 3.44 of the Code of the City of Wichita.

12. Performances of Street Performers as defined and regulated by Chapter 10.36 of the Code of the City of Wichita.

13. Sporting events, contests, practices or tournaments occurring at sport complexes or playing fields where the scope of the event is limited to the sporting event for which the property is designed to be utilized.

14. Events held at a private residence or in a residential neighborhood where no admission is charged, and no extraordinary police services are required.

15. Outdoor events conducted entirely on the property of public or private schools, colleges or universities, where no extraordinary police services are required.

(c) *'Community Event Coordinator'* means the Manager of Arts and Cultural Services or his or her designee.

(d) *'Community Event Promoter'* means the person who is directly responsible for organizing and/or conducting the event.

(e) *'Extraordinary police services'* means responsive police services which are in addition to and in excess of the normal police services provided to the location or off-site as a direct result of the event.

(f) *'Person'* shall mean a natural person or a legal entity such as, but not limited to an individual, firm, association, joint stock company, partnership or corporation.

(g) *'Street' or highway'* means the entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic. Where the word 'highway' or the word 'street' is used in this title, it means street, avenue, boulevard, thoroughfare, trafficway, alley and any other public way for vehicular travel by whatever name unless the context clearly indicates otherwise."

SECTION 2. Section 3.11.065 of the Code of the City of Wichita, Kansas, is created to read as follows:

**"Regulations for Alcohol Consumption or Sale at Community Events.**

(a) Any community event organizer, who desires to sell or allow the consumption of alcoholic liquor or cereal malt beverage at a community event, shall submit an application to the Community Event Coordinator for the sale or consumption of such alcoholic liquor or cereal malt beverages at such community event.

(b) Such written application must be made on a form provided by the Community Event Coordinator. The application must be submitted to the Community Event Coordinator not less than forty –five (45) days before the date of the proposed community event.

(c) The written application shall contain the following information:

(1) The name and address of the event promoter;

(2) The dates and times when alcoholic liquor or cereal malt beverages will be served at such event;

(3) For events occurring on the city's streets or sidewalks, a copy of the temporary permit issued by the State of Kansas, pursuant to K.S.A. 41-2645 and the City of Wichita, pursuant to Section 4.16.170 of the Code of the City of Wichita for the sale of alcoholic liquor at such event, or written documentation that an application is pending for such temporary permit;

(4) A copy of the caterer's license issued by the State of Kansas for any individual responsible for the sale of alcoholic liquor at such event;

(5) A detailed security plan;

(6) A plan as to how event organizers will prevent the off-premises consumption of alcohol and the consumption of alcohol by minors;

(7) A detailed site map indicating:

(a) Entry and exit points to the event venue(s);

(b) Description of the signage, barriers or maps which will be used to designate the area in which alcoholic liquor or cereal malt beverages may be consumed;

(c) The number and exact locations of all alcoholic liquor or cereal malt beverage sale/distribution booths;

(d) The location of any licensed drinking establishments that desire to participate in an event, and a designation of the area of the licensed premises of such drinking establishment(s) which have been extended into the event area.

(8) Whether entry to the event is restricted to invited guests or open to the public.

(9) The type of alcoholic liquor or cereal malt beverage to be sold or dispensed and the means or method which will be used to sell, dispense or distribute the alcohol to event attendees;

(10) The identity of the on-site supervisor of the alcoholic liquor or cereal malt beverage service;

(11) The name, address and licensee of any drinking establishment, which is adjacent to the event and which has extended its licensed premises into the event area if such event is occurring on the public streets and sidewalks of the City of Wichita;

(12) The name and address of any adjacent businesses which are to be included in the event area;

(13) A list of streets and or street right of ways to be closed to motor vehicle traffic for such event and the dates and times for such street closures;

(14) If signs are to be used to designate areas where alcoholic liquor or cereal malt beverage may be consumed, a diagram showing the number, size and location of such signs.

(d) The City Council shall review written applications for the sale and/or consumption of alcoholic liquor on the streets and sidewalks of the city of Wichita and may, by resolution, authorize the sale and/or consumption of alcoholic liquor on streets which have been closed to motor vehicle traffic and sidewalks in the event area. In determining if approval should be given, the City Council shall consider those factors set forth in Section 3.11.080 of the Code of the City of Wichita, Kansas.

(e) Approval by the City Council, pursuant to this section, shall not be required for community events held on locations exempted from the prohibitions of consuming alcohol in public, as designated by Section 4.04.045 of the Code of the City of Wichita or those events which occur on private property.

(f) Alcoholic liquor and cereal malt beverages served at a community event are to be served in distinctively different containers than those in which non-alcoholic drinks are served.

(g) Alcoholic liquor and cereal malt beverages served at a community event are not to be sold or served in pitchers, buckets or carafes and no person is to be served or allowed to purchase more than two alcoholic drinks at the same time.

(h) If multiple alcoholic liquor or cereal malt beverage vendors or licensees are participating in a community event, each vendor or licensee must serve their alcoholic liquor or cereal malt beverage in distinctive containers which identify such vendor or licensee.

(i) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within any community event without obtaining the approval of the City Council and any and all necessary state and local permits for the sale of such alcoholic liquor.”

SECTION 3. Section 3.11.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“**Street closures.** (a) Any street closures requested by a licensee or which are necessary as part of a community event permit application must be approved by the City Council prior to the issuance of the Community Event Permit by the Community Events Coordinator.

(b) The following requirements must be met before a street closure is approved:

1. The applicant must submit to the community events coordinator a written request for the street closure at least forty-five (45) days prior to the date of the proposed street closure.

2. The applicant is responsible for attempting to secure the cooperation of all property owners/residents affected by the street closing and will provide proof that all property owners/residents have been notified by attaching to the application a statement signed by all affected property owners/resident listing the name, address and telephone number of the person contacted expressing their approval or disapproval of the street closure. Failure to notify any property owners/residents may result



in the denial of the application or require a change in the scheduled closing date.

3. The applicant must be the responsible party for the event.

4. The applicant will provide a sketch of the street area indicating the area to be closed and the location of all properties adjacent to the area being closed.

5. The closure of the street affected by the event must not cause a significant hardship to pedestrian or vehicular traffic. Alternative routes must be available for public and emergency vehicles.

6. The street closure shall be for a period less than twenty-four (24 ) hours.

7. The applicant is responsible for obtaining and placing barricades for the street closure and for removing the barricades promptly after the event is concluded.

8. The applicant must, promptly after the conclusion of the event, clean the right-of-way to its condition prior to the street closure.

9. The applicant must allow city personnel, emergency vehicles and police officers to lawfully enter the area. Orders or directions given by police or fire officials in the lawful discharge of their duties must be obeyed.”

SECTION 4. Section 3.11.155 of the Code of the City of Wichita, Kansas, is created to read as follows:

**“Hours of Operation for Community Events.** Outdoor entertainment for events licensed, pursuant to this Chapter, shall cease between the hours of eleven p.m. to 8:00 a.m. Sunday through Thursday and midnight to 8:00 a.m. on Friday and Saturday.”

SECTION 5. Section 4.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definitions.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this title, have the meanings indicated in this section.

(a) ‘Alcohol’ means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) ‘Alcoholic liquor’ means alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) ‘Barrier’ means any natural or manmade obstruction which precludes direct traffic, between a church or school and a private club, drinking establishment or a place of business at which cereal malt beverages are sold and is of such a character that it completely separates such establishments, including

parking facilities. Barriers include, but are not limited to, rivers, railroad tracks, levees, and drainage ditches.

(d) 'Beer' modified, or limited by other words, means a beverage, containing more than three and two-tenths percent alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water and includes beer, ale, stout, lager beer, porter, and similar beverages having such alcoholic content.

(e) 'Beneficial interest' shall not include any interest a person may have as owner, operator, lessee or franchise holder of licensed hotel or motel on the premises of which a club or drinking establishment is located.

(f) 'Bus' means every motor vehicle designed for carrying more than ten passengers and used for transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(g) 'Caterer' means an individual, partnership or corporation which sells alcoholic liquor by the individual drink or domestic beer, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(h) 'Cereal malt beverage' means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than three and two-tenths percent alcohol by weight.

(i) 'Cereal malt beverage retailer' means any person who sells or offers for sale any cereal malt beverage for use or compensation and not for resale in any form.

(j) 'Class A club' means a premises which is owned or leased by a corporation, partnership, business trust or association, and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporation stockholders, partners, trust beneficiaries or associates (hereinafter referred to as "members"), and their families and guests accompanying them.

(k) 'Class B club' means a premises operated for profit by a corporation, partnership or individual to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(l) 'Club' means a Class A or Class B club.

(m) 'Crime of moral turpitude' means a crime involving dishonesty.

(n) 'Director' means the Director of Alcoholic Beverage Controls of the Kansas State Department of Revenue.

(o) 'Distributor' shall have the meaning ascribed to it by K.S.A. 41-102 and amendments thereto.

(p) 'Domestic beer' means beer which contains not more than eight percent alcohol by weight and which is manufactured in this state.

(q) 'Drink of alcoholic liquor' means one individual serving of any beverage containing alcoholic liquor.

(r) 'Drink of cereal malt beverage' means one individual serving of any cereal malt beverage not to exceed twelve ounces.

(s) 'Drinking establishment' means premises which may be open to the general public over twenty-one years of age, where alcoholic liquor by the individual drink is sold.

(t) 'Drinking establishment/restaurant' means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold and which derive not less than thirty percent of its gross revenues from sales of food and beverages for consumption on such premises in a two month period Failure on the part of the licensee to meet the thirty percent food sales criteria, or conviction of the licensee or any owner, officer, or employee of the licensee of any two violations of Section 4.16.130 of the City Code occurring on the licensed premises within one year shall result in the premises being reclassified as a drinking establishment as provided in Section 4.16.095(c) and any amendments thereto.

(u) 'Drinking establishment/restaurant/event center' means premises which may or may not be open to the public, are frequently rented out for public or private activities which are not repeated on a weekly basis, are not open to the public on a daily basis at times other than when an event is scheduled, and which derive at least thirty percent of its gross revenue from sales of food and beverages for consumption on the premises in a six-month period.

(v) 'Employee' means any person employed in the business of selling cereal malt beverages or alcoholic liquor by a licensee.

(w) 'Food' means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(x) 'Gross revenues' means only that income derived from cereal malt beverages, alcoholic liquor, and other food consumables.

(y) 'Hotel' has the meaning ascribed to it by K.S.A. 36-501 and amendments thereto.

(z) 'Legal age for consumption of cereal malt beverage' means twenty-one years of age.

(aa) 'Licensee' means any person to whom a current cereal malt beverages license has been issued by the city council, authorizing sale of cereal malt beverages and/or any person to whom a current club, drinking establishment, drinking establishment/restaurant, drinking establishment hotel, or caterer's license or temporary permit has been issued pursuant to this title and/or any person to whom a current club, drinking establishment, drinking establishment hotel, or caterer's license, or temporary permit has been issued by the director of alcoholic beverage control pursuant to the Kansas Liquor Control Act, K.S.A. 41-101 et seq., and amendments thereto.

(bb) 'Manager' means the manager or assistant manager, or both, of any establishment licensed under this Title who is in charge of the daily operations of the establishment. A manager shall be deemed to be employed in connection with the dispensing, selling, mixing or serving of alcoholic liquor.

(cc) 'Manufacture' means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

(dd) 'Manufacturer' shall have the meaning ascribed to it by K.S.A. 41-102 and amendments thereto.

(ee) 'Minor' means any person under twenty-one years of age.

(ff) 'Morals charge' means a charge involving prostitution or sodomy; pimping or promoting prostitution or sodomy; procuring any person; soliciting a child under eighteen year of age for any immoral act involving sex; rape; incest; indecent liberties with a child; gambling; illegal cohabitation; adultery; bigamy; a crime against nature; lewd and lascivious behavior; any violation of Chapter 5.26 of the Code of the City of Wichita and amendments thereto; or any violation of the Uniform Controlled Substances Act as set forth in K.S.A. 65-4101 *et seq.* and amendments thereto.

(gg) 'Off-premises business' means a business establishment which sells cereal malt beverages or alcoholic liquor in original unopened containers for consumption off of the licensed premises.

(hh) 'Original package' means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked, or capped, sealed and labeled by the manufacturer of alcoholic liquor or cereal malt beverage to contain and to convey any alcoholic liquor or cereal malt beverage.

(ii) 'Person' means any natural person, corporation, partnership, trust or association.

(jj) 'Place of business' means any place, except a tavern, at which cereal malt beverages and/or alcoholic liquor are sold.

(kk) 'Premises' means the specific area described in the license application and approved as the location upon which the cereal malt beverages and/or alcoholic liquor may be sold and/or consumed under the license.

(ll) 'Public assembly area' means the area of the licensed premises to which the general public has access for purposes including, but not limited to, food and drink consumption, entertainment, recreation, social functions or awaiting transportation.

(mm) 'Public place' means any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

(nn) 'Sale' means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration; and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.



(oo) 'School' means the use of a site for instructional purposes on an elementary or secondary level, including both public schools as well as private schools that have curriculums similar to those in public schools.

(pp) (1) 'Sell at retail' and 'sale at retail' refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licenses caterers or holders of temporary permits.

(2) 'Sell at retail' and 'sale at retail' do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

(qq) 'Special event' means a picnic, bazaar, fair, festival or similar gatherings or events which have been issued a community event license pursuant to Chapter 3.11 of the Code of the City of Wichita, where a temporary permit for the sale of cereal malt beverages or alcoholic liquor is issued pursuant to regulations established by this title, and the Kansas Club and Drinking Establishment Act and amendments thereto.

(rr) 'Spirits' means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(ss) 'Tavern' means any business establishment licensed to sell cereal malt beverages for consumption on the premises that derives in any one month of the calendar year less than fifty percent of its gross revenues from the sale of food for consumption on the premises.

(tt) 'Temporary permit' shall have the meaning ascribed to it by K.S.A. 41-2601 and amendments thereto.

(uu) 'To sell' includes to solicit or receive an order for, to keep or expose for sale and keep with intent to sell.

(vv) 'Wine' means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(ww) 'Wholesaler' means a distributor as defined by K.S.A. 41-2701 and amendments thereto."

SECTION 6. Section 4.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Consumption in public places prohibited.** (a) (1) Except as otherwise provided herein, it is unlawful for any person within the corporate limits of the city to drink or consume alcoholic liquor upon the public streets, alleys, roads or highways, or inside vehicles while upon the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be sold and/or consumed at a special event held on public streets, alleys, roads, sidewalks or highways, provided that such streets, alleys, roads, sidewalks or highways have been closed to motor vehicle traffic by the City Council and when a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments

thereto, for such event and the consumption of such alcoholic liquor at such event has been approved by the City Council pursuant to Section 3.11.065.

(3) No alcoholic liquor may be consumed inside or on motor vehicles while on public streets, alleys, roads or highways at such special event.

(4) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the City Council pursuant to Section 3.11.065. The boundaries of such event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such event.

(5) No person shall possess or consume alcoholic liquor inside the premises, licensed as a special event, that was not sold or provided by the licensee holding the temporary permit for such special event or an adjacent drinking establishment which has extended its licensed premises into and made a part of the licensed premises for such special event pursuant to K.S.A. 41-2645(e)(2) and amendments thereto.

(6) It shall be unlawful for any person to distribute, sell or allow the consumption of any alcoholic liquor on the streets or sidewalks within any special event without obtaining the approval of the City Council and any and all necessary state and local permits for the sale or consumption of such alcoholic liquor.

(7) Each licensee selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by this title and by the Club and Drinking Establishment Act of the State of Kansas pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated;

(2) Upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments takes place;

(3) In a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of such alcoholic liquor in violation of K.S.A. 41-803 and amendments thereto take place;

(4) In private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803 and amendments takes place; or

(5) On the premises of a microbrewery or farm winery, if authorized by this title and by K.S.A. 41-308a or Section 138, of House Substitute for Substitute Senate Bill 141 and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes incidental thereto.

(2) In any state-owned or operated building or structure and on the surrounding premises, which is furnished to and occupied by any state officer or employee as residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by the Wichita Airport Authority.

(d) On property which has been specifically exempted by ordinance the title of which is vested in the City of Wichita.

(e) Any property located within the corporate limits of the City of Wichita that is under the control of the Kansas State Board of Regents and the

Kansas State Board of Regents has exempted said property from the provisions of K.S.A. 41-719(c) and amendments thereto and said property is not used for classroom instruction.

(f) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(g) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than six months, or both.”

SECTION 7. Section 4.04.045 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Exemptions.** The city, by virtue of the authority contained in K.S.A. 41-719, exempts the following properties from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719, and in Sections 4.04.040, 4.16.020 and 4.16.030 of this Code: CityArts, the education building of the Wichita Area treatment Education and Remediation (WATER) Center, Sports Hall of Fame, Lionel Alford Regional Library, Wichita-Sedgwick County Historical Museum, Century II, the Wichita Mid-Continent Airport, Colonel James Jabara Airport, Cowtown, the Wichita Art Museum, Mid-America All-Indian Center, Lawrence-Dumont Stadium, the Central Branch Wichita Public Library, the Kansas Aviation Museum (Historic Wichita Municipal Airport), the Old Town Farm and Art Market, Botanica -- the

Wichita Gardens, the Hyatt Regency Wichita Hotel and Conference Center, Exploration Place, the Ice Sports Center of Wichita, the Wichita Boathouse, the open area bounded on the north by the Hyatt Regency Hotel and Conference Center, on the south by Lewis Street, on the east by Wichita Street, and on the west by the Arkansas River, the La Familia Senior Community Center, Inc. located at 841 W. 21st St. North, the Old Town Cinema Plaza, from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719, and in Sections 4.04.040, 4.16.020 and 4.16.030 of this Code.”

SECTION 8. Section 4.12.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Examination of applicant by the city council; issuance or denial of license.** If the application for a license is in proper form and accompanied by the license fee the city council shall examine the application and, after examination of the application, the city council, if they approve the same, shall issue a license to the applicant; provided

a) That no license shall be issued to:

(1) A person who is not a resident of the city or county in which the premises covered by the license are located, and who has not been a resident in good faith of the state at least one year prior to the application and a resident of the county in which such place of business is to be operated for at least six months, prior to the filing of the application;

(2) A person who is not of good character and reputation in the community in which he resides;

(3) A person who is not a citizen of the United States.

(4) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or of any crime involving moral turpitude, or been adjudged guilty of driving a motor vehicle while under the influence of intoxicating liquor or drugs, or of the violation of any other intoxicating liquor law of any city, state or of the United States; provided that the terms "conviction" and "adjudged guilty" shall include being placed on diversion.

(5) A partnership, unless all members of such partnership shall otherwise be qualified to obtain a license.

(6) A corporation, if any manager, officer or director thereof, and/or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than the citizenship or residency requirements;

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty-five percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.



(8) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or age, except that this subsection shall not apply in determining eligibility for a renewal license.

(b) A license shall not be issued for a tavern on premises located within three hundred feet of any church or school or a residential zoning district, the distance to be measured as set forth in the Wichita/Sedgwick County Unified Zoning Code.

Renewal of licenses may be made for all establishments presently licensed within three hundred feet of any church or school or a residential zoning district, so long as the premises are used or held for use as a tavern or building in which cereal malt beverages are sold; provided, however, that should an establishment located within three hundred feet of the property line of any church or school or a residential zoning district cease to be used as a tavern or building in which cereal malt beverages are sold for a period of ninety days or more or said premises are used for another type of business, then, and in that event, no new license shall be issued for the sale of cereal malt beverages on the premises, provided, however, that the distance requirements set out above shall not apply to the place of business of a license selling cereal malt beverages at retail and not for consumption on the premises. Periods of time during which

taverns or buildings in which cereal malt beverages are sold are being remodeled or are being repaired because of damage caused by fire or natural disasters such as floods or windstorms, shall not be included in computing the above ninety-day period; provided, however, that any remodeling or repair must be commenced within ninety days after closure of any given structure and completed within a reasonable time thereafter. Additionally, the vice section of the Wichita police department shall be notified within thirty days of closing whenever any tavern or building in which cereal malt beverages are sold for remodeling or repairs. Such notice shall state the date when remodeling will start and the date it will be completed. It is further provided that the space limitations prohibiting the licensing of cereal malt beverage retailers within three hundred feet of the property line or any church or school shall not apply to colleges and universities within the city limits, and the colleges and universities are exempted from the space limitation. Off-street parking shall be provided\_as required by the Wichita/Sedgwick County Unified Zoning Code.

(c) A license shall not be issued for the sale of cereal malt beverages for consumption on the premises if the place of business is also licensed for the sale of cereal malt beverages for consumption off the premises.

(d) No license shall be issued for premises wherein the use thereof would be in violation of the city zoning laws or the city building codes or fire codes.

(e) Cereal malt beverages retailers' licenses shall be issued on an annual basis, except that this provision shall not apply to special events licenses.”

SECTION 9. Section 4.12.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Minors prohibited; entering or remaining in taverns, etc., prohibited.**

(a) No person under the legal age for consumption of cereal malt beverage shall enter or remain on the premises of a tavern. Violation of this subsection by a person eighteen or more years of age but less than twenty-one years of age is a misdemeanor punishable by a fine of not less than one hundred dollars and not more than two hundred fifty dollars. In addition to such fine the court may order the offender to perform forty hours of public service.

Further, any person less than eighteen years of age who violates this section is a juvenile offender under the Kansas Juvenile Offenders Code and upon adjudication thereof, shall be required as a condition of disposition to pay the fine or perform the public service, or both, specified as punishment for the offense under this subsection.

(b) No licensee, manager, employee or agent shall permit a person under the legal age for consumption of cereal malt beverages to enter or remain on the premises of a tavern. No licensee, manager, employee or agent shall permit a person under the legal age for consumption of cereal malt beverage to possess, consume or purchase any cereal malt beverage in or about a place of business, except that an employee who is not less than eighteen years of age may dispense or sell cereal malt beverage, if:

(1) The place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers for consumption off the premises;

(2) The place of business is a licensed food service establishment, as defined by K.S.A. 36-601 and amendments thereto, and not less than fifty percent of the gross receipts from the place of business is derived from the sale of food for consumption on the premises of the licensed place of business; or

(3) The employee is under the on-premises supervision of the licensee or permit holder, or an employee who is twenty-one years of age or older.

(c) It shall be a defense to a prosecution under this section if:

(1) The defendant is licensed as a cereal malt beverage retailer, tavern, restaurant selling cereal malt beverage or a special event, or an employee thereof;

(2) The defendant sold the cereal malt beverage to the person with reasonable cause to believe that such person was of legal age for consumption of cereal malt beverage; and

(3) To purchase the cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas non-driver's identification card or other official or apparently official document that reasonably appears to contain a photograph of the minor and purporting to establish that such person was of legal age for consumption of cereal malt beverage.”

SECTION 10. Section 4.12.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Revocation or suspension by city council; grounds; right of appeal.**

The city council, upon five days' written notice, to a person holding a license to sell cereal malt beverages shall revoke or cause to be suspended for a period of not more than thirty days such license for any of the following reasons:

(a) If the licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee, manager, employee or agent has violated any of the provisions of this chapter, Chapter 3.28, Chapter 3.30, or Section 3.08.030 of the Code of the City of Wichita or any rule or regulation by the city council of the city, or the licensed premises are in violation of the health, housing, fire, zoning, or building codes of any local, state, or federal jurisdiction, including but not limited to, occupancy exceeding licensed capacity of a premises;

(c) If the licensee has become ineligible to obtain a license under this chapter;

(d) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which said license is issued, or for a licensee, his manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;

(e) The sale or gift of cereal malt beverages to those under the legal age for consumption of cereal malt beverages by a licensee, his manager or employee;

- (f) The nonpayment of any license fees payable hereunder;
- (g) For a licensee, his manager or employee to permit gambling in or upon premises selling cereal malt beverages;
- (h) For a licensee, his manager or employee to permit any person to mix drinks with materials purchased in such place of business or brought in for that purpose unless currently licensed as a private club or drinking establishment;
- (i) For the employment of persons under the legal age of consumption in dispensing cereal malt beverages in a tavern or under eighteen years of age in a food service establishment or for off-premises consumption;
- (j) For employing a person who has been adjudged guilty of a felony, a violation of an offense involving a morals charge or a crime of moral turpitude or a violation of an intoxicating liquor or drug law; provided that the term "adjudged guilty" shall include being placed on diversion. The chief of police may require any employee to submit to fingerprinting to determine if a violation of this section has occurred, and the failure of an employee to submit to fingerprinting, if required by the chief of police, shall be prima facie evidence that the employee is ineligible for employment under the provisions of this section.
- (k) For the sale or possession of or for permitting any person to use or consume upon or in said premises alcoholic liquor, as defined in Section 4.04.010 except in a place of business licensed as a private club or drinking establishment, pursuant to this title and Article 26 of Chapter 41 of the Kansas Statutes Annotated.

(l) For failure to maintain sufficient records to determine the percentage of gross revenues obtained from the selling of cereal malt beverages;

(m) For failure to permit the inspection of such records at all times during business hours by proper agents of the city;

(n) For knowingly allowing or permitting any known felon to loiter upon or about the licensed premises;

(o) For selling or providing cereal malt beverage to any person who is intoxicated who thereafter and by reason of such intoxication or where such intoxication is a contributing factor violates any ordinance of the City of Wichita, the laws of the State of Kansas or the federal government.

Provided, that if any of the grounds for revocation herein enumerated are violated by an employee or a manager, then in the absence of proof of knowledge by the licensee, there shall be no revocation, except as herein provided, but there may be a suspension of not more than thirty days; it being further provided that in the event any licensee is subjected to more than two such suspensions in any twelve-month period, this license may be revoked on the third such violation.

Within twenty days after the order of the city council revoking or suspending any license, the licensee may appeal from such order to the district court of the county in the manner as now provided by law in K.S.A. 1979 Supp. 41-2708; provided, that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of any such appeal. In case of the revocation of a license of any licensee, no new license shall be

issued to such person or to any person acting for or on behalf, for a period of six months after the revocation becomes effective.”

SECTION 11. Section 4.16.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License exclusive to premises issued.** (a) The license provided in this chapter shall be issued for one particular premises which shall be stated in the application and in the license. No license shall be issued for premises wherein the use thereof would be in violation of the city zoning laws or the city building codes or fire codes. Nothing in this section shall be construed to require a fixed premise for persons licensed as a caterer pursuant to article 26 of Chapter 41 of Kansas Statutes Annotated.

(b) Any licensed premises which includes the exterior of a building and/or an outdoor area must be adequately lighted during all business hours.

(c) Except as provided in subsection (e), any licensed premises which includes the exterior of a building must be enclosed by a fence or approved diverters in such a way as to allow access only through a single structure designated as the official gate or entrance.

(d) Any licensed premises which is an outdoor area must have its boundaries clearly marked or fenced so as to allow access only through an official gate or entrances.

(e) Any licensed premises of a special event, for which a temporary permit has been issued pursuant to K.S.A. 41-2645 and amendments thereto, shall be clearly marked by signs, a posted map or other means which reasonably



identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(f) The licensed premises of drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.”

SECTION 12. Section 4.16.075 of the Code of the City of Wichita, Kansas, is created to read as follows:

**“Drinking establishments and drinking establishment/restaurants currently licensed, renewal thereof.** All drinking establishments and drinking establishment/restaurants that are licensed at the time of the passage of this ordinance shall be immediately subject to all requirements set forth in this Title, including, but not limited to, Sections 4.04.010(t), 4.16.100 and 4.16.120 herein and any amendments thereto; and will be subject to the provisions of 4.16.085 and 4.16.087 and any amendments thereto upon the next renewal of such an establishment’s license.”

SECTION 13. Section 4.16.085 of the Code of the City of Wichita, Kansas, is created to read as follows:

**“Requirements for new licensees.** After the date of passage of this ordinance, all applicants for a drinking establishment license or a drinking establishment/restaurant license that are not currently licensed and subject to

Section 4.16.075 herein, shall be required to provide the following as a part of such application:

(a) A business plan which will be on a form provided by the City's licensing section and shall provide such information as set forth herein, including, but not limited to, information as to hours of operation, proposed forms of entertainment, key personnel such as owner(s) and any on-site manager(s), insurance coverage information, a copy of any lease or purchase agreement for the licensed premises, a floor plan of the licensed premises and a site plan showing the location of parking spaces as required by the Uniform Zoning Code of the City . Failure to provide a complete business plan with the information required herein will result in denial of the requested license.

(b) A food menu, a statement of monthly projected income and copies of vendor letters of intent as a part of such application. Failure to provide this information as part of the applicant's business plan will result in denial of the requested license.

(c) Proof that the proposed licensed premises have been subject to a CPTED (Crime Prevention Through Environmental Design) inspection by the Wichita Police Department. The recommendation of such inspection shall be attached to the application.

(d) Proof that the applicant and all listed on-sight managers of the establishment, or, if the applicant is a corporation, all listed on-site managers have attended a four-hour "safe bar" class conducted by the Wichita Police Department. Any manager subsequently hired by the licensee shall be required

to show proof of attendance of the “safe bar” class within 45 days of such manager’s date of employment at said establishment. Failure to of any licensee to provide such proof shall be grounds for revocation of the license.

(e) A list of all on-sight managers for the establishment, which list shall also be updated in writing with the City license section within 10 business days from the date any manager is no longer employed by the licensee or when any new manager is hired by the licensee.

Once the information required by this section has been provided to the City’s licensing section by all new applicants and by all applicants for the first renewal of a license that was in effect at the time of the passage of this ordinance, the provisions of this Section shall not apply to subsequent renewal applications for drinking establishments or drinking establishment/restaurants. Provided, however, updates regarding any changes being made by an establishment in the information required in this section, and information regarding any on-sight manager(s) for the licensed premises as required in subsection (e) herein shall be sent to the City license section in writing within 10 business days.”

SECTION 14. Section 4.16.087 of the Code of the City of Wichita, Kansas, is created to read as follows:

**“Enforcement of required food sales percentage; Audits.** Enforcement of the food sale percentages required for drinking establishment/restaurants by the provisions of this Title shall be by both random and regularly scheduled audits of such establishments.

(a) Newly licensed establishments. Every licensee of a newly licensed drinking establishment/restaurant shall be required to provide information as required in subsection (b) herein for an initial audit once the establishment has been in operation for a two month period. Once two months have passed from the date the drinking establishment/restaurant began operations, the licensee shall have an additional fifteen (15) days to remit all information to the City's licensing section for the final audit.

(b) Audits of any licensed establishment. Information for any audit required by this section shall be submitted on forms approved by the City and shall be sent to the City's licensing section. Such information will then be forwarded to the Special Investigations Bureau of the Wichita Police Department who shall be responsible for conducting or overseeing the audit process. Information which must be provided shall include, but not be limited to, copies of business records sufficient to demonstrate the total gross revenue during the two months in question for food sales and alcohol sales. Sufficient business records shall be deemed to include, but shall not be limited to, a list of vendors with verifying information, including written authorization from the licensee for any agent or agents of the City to contact vendors directly and obtain information regarding such records, a listing of monthly payments to food vendors and monthly payments to alcohol vendors. For the purposes of any audit required by this section, revenues from the sale of non-alcoholic beverages that are mixed with alcoholic liquor shall be counted as alcohol sales and not as food sales. Once an audit is requested by the police, the licensee shall have fifteen (15) days to

remit all required information to the licensing section. Failure to provide the necessary business records as required herein, or the failure of the records provided to demonstrate that the required food sale percentages are being maintained by the establishment will result in the reclassification of the premises from a drinking establishment/restaurant to a drinking establishment, as provided in Section 4.16.095, and any amendments thereto.”

SECTION 15. Section 4.16.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Revocation of license.** (a) The city council shall immediately revoke the license of any licensee whenever the state license of the licensee is revoked by the state for any reason.

(b) The city council, upon five days written notice to a person holding a license to sell alcoholic liquor, may assess a fine not to exceed five hundred dollars, may assess such fine and/or suspension for a period not to exceed thirty days or may revoke such license for any of the following reasons:

(1) If the licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon;

(2) If the licensee, manager, employee or agent has violated any of the provisions of this title, Chapter 3.28, Chapter 3.30, or Section 3.08.030 of the Code of the City of Wichita or any rule or regulation by the city council of the city, or the licensed premises are in violation of the health, housing, fire, zoning, or building codes of the City of Wichita or the State of Kansas or of the maximum occupant load of such building;

(3) If the licensee has become ineligible to obtain a license or permit under this title;

(4) Drunkenness of a person holding such license, drunkenness of licensee's manager or employee while on the premises for which said license is issued, or for a licensee, whose manager or employee permits any intoxicated person to remain in such place selling alcoholic liquor;

(5) The sale or gift of cereal malt beverage or alcoholic liquor to a minor by a licensee, his manager or employee;

(6) The nonpayment of any license fee payable pursuant to this title;

(7) For a licensee, his manager or employee to permit gambling in or upon premises selling alcoholic liquor;

(8) If the licensee or his manager or employee has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee;

(9) If there has been a violation of a provision of the laws of this city or of this state or of any other state or the United States pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge or moral turpitude on premises where alcoholic liquor is sold by such licensee;

(10) If the licensee or his managing officers or any employee, has purchased or displayed, on premises where alcoholic liquor is sold by such licensee, a federal waging occupational stamp issued by the United States Treasury Department;

(11) If the licensee or his managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal coin-operated gambling device stamp for the premises issued by the United States Treasury Department;

(12) If the licensee holds a license as a Class B Club, drinking establishment or caterer and has been found guilty of a violation of Article 10 of Chapter 44 of the Kansas Statutes Annotated under a decision or order of the Civil Rights Commission which has become final or such licensee has been found guilty of a violation of K.S.A. 21-4003 and amendments thereto;

(13) For employing a person who has been adjudged guilty of a felony, a violation of an offense involving a morals charge or a crime of moral turpitude, or a violation of intoxicating liquor or drug law; provided that the term "adjudged guilty" shall include being placed on diversion. The chief of police may require any employee to submit to fingerprinting to determine if a violation of this section has occurred, and the failure of an employee to submit to fingerprinting if required by the chief of police shall be prima facie evidence that the employee is ineligible for employment under the provisions of this section;

(14) For failure to maintain sufficient records to determine the percentage of gross business obtained from the sale of cereal malt beverages or alcoholic liquor;

(15) For failure to permit the inspection of such records at all times during business hours by proper agents of the city;

(16) For knowingly allowing or permitting any known felon to loiter upon or about the licensed premises;

(17) For selling or providing alcoholic liquor to any person who is intoxicated who thereafter and by reason of such intoxication or where such intoxication is a contributing factor violates any ordinance of the City of Wichita, laws of the State of Kansas, or the federal government;

(18) Failure to pay a fine assessed by the city council within thirty days of the date such fine was imposed.

(c) In any hearing before the city council pursuant to this section or upon appeal from a suspension or reclassification of license by the chief of police pursuant to Section 4.16.095, a certified copy of conviction from any local, state, or federal court, for any violation contained within subsection (b) of this section, is prima facia evidence of violation. For the purposes of this section, 'conviction' shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

(d) If any of the grounds for revocation enumerated in subsection (b) of this section are violated by an employee or manager, then in the absence of proof of knowledge by the licensee, there shall be no revocation, except as herein provided, but there may be a suspension of not more than thirty days; it being further provided that in the event any licensee is subject to more than two such suspensions in any twelve-month period, his license may be revoked on the third such violation.

(e) Within twenty days after the order of the city council revoking or suspending any license, the licensee may appeal from such order to the district court of the county in the manner as provided by law; provided that any appeal taken from an



order revoking any such license shall not suspend the order of revocation during the pendency of such appeal. In case of the revocation of a license of any licensee, no new license shall be issued to such person or to any person acting for or on his behalf, for a period of six months after the revocation becomes effective.”

SECTION 16. Section 4.16.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Display of license.** Every licensee shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises.

In addition to display of the license, a current list of all authorized on-site managers shall be posted and made available to law enforcement upon request.”

SECTION 17. Section 4.16.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Closing Hours.** (a) No club or drinking establishment shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of two a.m. and nine a.m. on any day. At closing time:

- (1) The lights are to be fully illuminated;
- (2) The music, dancing or other live entertainment is to be stopped;
- (3) All alcoholic liquor is to be removed from all tables and no patron shall be in possession of any alcoholic liquor; and
- (4) Patrons are to be directed to vacate the premises.

No person other than employees of the establishment shall be allowed to remain on the licensed premises more than thirty minutes after closing time.

(b) No club or drinking establishment licensed pursuant to Article 26 of Chapter 41 of the Kansas Statutes Annotated shall be open to members and the public between the hours of two a.m. and nine a.m. on any day except that this subsection shall not apply to restaurants or hotels licensed as drinking establishments.

(c) No caterer shall allow the serving, mixing or consumption of alcoholic liquor between the hours of two a.m. and six a.m. on any day at an event catered by such caterer.

SECTION 18 Section 4.16.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permitting consumption by minors; minors prohibited from entering or remaining in drinking establishments; exceptions; penalties.**

(a) No licensee, permit holder, or any owner, officer, or employee thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor on premises licensed as a drinking establishment or drinking establishment/restaurant by a person under legal age, except that a licensee's or permit holder's employee who is not less than eighteen years of age may serve alcoholic liquor under the on-premises supervision of the licensee or permit holder, or an employee who is twenty-one years of age or older.

(b) No licensee, permit holder, or any owner, officer, or employee of a drinking establishment, shall knowingly or unknowingly permit a person under the legal age for consumption of alcoholic liquor to enter or remain on the premises of a drinking establishment and no person under the legal age for

consumption of alcoholic liquor shall enter or remain on the premises of a drinking establishment.

(c) It shall be a defense to a prosecution under subsection (a) or (b) if:

(1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; and

(2) The defendant sold the alcoholic liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and

(3) To purchase the alcoholic liquor, the minor exhibited to the defendant a driver's license, Kansas non-driver's identification card or other official or apparently official document that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was twenty-one or more years of age.

(d) Any licensee, permit holder, or any owner, officer or employee thereof who violates any provision of this section is guilty of a misdemeanor and upon conviction shall be punished as provided in Section 4.16.190 and amendments thereto

(e) Violation of this section by a person eighteen or more years of age but less than twenty-one years of age is a misdemeanor punishable by a fine of not less than two hundred dollars and not more than five hundred dollars. In addition to such fine the court may order the offender to perform forty hours of public service.

Further, any person less than eighteen years of age who violates this section is a juvenile offender under the Kansas Juvenile Offenders Code and upon adjudication thereof shall be required as a condition of disposition to pay the fine or perform the public service, or both, specified as punishment in this sub section for the offense.

(f) The provisions of subsection (b) of this section applies only to drinking establishments and not to drinking establishment/restaurants, as those terms are defined in Section 4.04.010 and amendments thereto. Be it provided, however, the provisions of subsection (b) of this section shall not apply to a drinking establishment when the licensed premises are leased to a bona fide religious organization for the purpose of conducting religious services, but only during the actual time when such religious services are being held. During the time when religious services are being held, all alcoholic liquor must be removed from the licensed premises, or secured behind locked cabinets, and no alcoholic liquor or cereal malt beverage shall be available to any participants in the religious services, except that nothing contained in this subsection shall prevent the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church”.

SECTION 19. Section 4.16.135 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Removal of alcoholic liquor from licensed premises prohibited; exceptions.**

(a) No person shall remove any drink of alcoholic liquor from premises licensed as a club or drinking establishment or from a caterer's premises, or from premises licensed pursuant to a temporary permit. Violation of this section by a person is a misdemeanor punishable by a fine not to exceed one hundred dollars.

(b) Exceptions. Subsection (a) herein shall not apply to:

(1) ~~a~~A person who removes alcoholic liquor from premises licensed as a class A club, class B club, drinking establishment, drinking establishment/restaurant or drinking establishment/restaurant/event center as allowed in Section 4.16.155 and any amendments thereto.

(2) A person who removes alcoholic liquor from premises of a licensed drinking establishment, which is adjacent to or within the area of a special event when such drinking establishment has properly extended its premises into the special event area. A temporary permit must have been issued for the sale or consumption of alcoholic liquor at such special event and the sale and/or consumption of such liquor has been approved by the City Council.”

SECTION 20. The originals of Sections 3.11.020, 3.11.150, 4.04.010, 4.04.040, 4.04.045, 4.12.050, 4.12.140, 4.12.150, 4.16.070, 4.16.090, 4.16.100, 4.16.120, 4.16.130 and 4.16.135 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 21. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective on July 1, 2009 following publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 23rd day of June, 2009.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law